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explanation. For illustration here, too, it is interesting to compare Ssp. II. 60, § 1, with Beaumanoir, Coutumes de Beauvoisis, 38, 2, and 31, 16: "Se une coze est louee a aucun et ele est emblee, le poursuite en appartient a celi qui le loua, car il est tenu au rendre le coze qui li fu louee." If a thing is let out to any one and is stolen, the pursuit of the thing belongs to the one who hired it, for (and this indicates the legal motive) he is obliged to return the thing which was let out to him. After what has been said above, there is no occasion to enter in detail into the results offered by this work, which are not essentially different from those of Laband.

Hereafter it may be of use to the more abstruse students of law, as approached from the historical side, to examine into the nature of real actions in the old German and especially Saxon sources, and to connect with these a comparison with the oldest French authorities. On this subject also the works above mentioned, as well as others of the existing German school, throw much light.

M. T.

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7. — *A Short History of the English People.* By J. R. GREEN, M. A., Examiner in the School of Modern History, Oxford. With Maps and Tables. London: Macmillan & Co. 1875.

It is difficult to speak of this book in any other terms than those of unqualified praise. Its learning, its style, its imagination, and, almost above all, its sound common-sense, are most remarkable. Readers of this Review will readily acquit its criticisms of any tendency towards indiscriminate laudation, and may therefore be less disposed to scepticism if the critic for once frankly begins by asserting that Mr. Green cannot be ranked among contemporary English historians second to any one but Macaulay himself.

Never has the popular style of historical writing been raised to so high a standard as in Mr. Green's work. He has hit a curiously happy vein of picturesque, yet unaffected narration. As an example, one among hundreds, here is a description of the mental state of England at the time of Wat Tyler's rebellion, about the year 1380:—

"The cry of the poor found a terrible utterance in the words of 'a mad priest of Kent,' as the courtly Frois-art calls him, who had for twenty years been preaching a Lollardry of coarser and more popular type than that of Wyclif, and who found audience for his sermons, in defiance of interdict and imprisonment, in the stout yeomen who gathered in the Kentish churchyards. 'Mad,' as the land-owners called him, it was in the preaching of John Ball that England first listened to the knell of feudalism and the declaration of the rights of man. 'Good people,' cried the preacher, 'things will never go

well in England so long as goods be not in common, and so long as there be villains and gentlemen. By what right are they whom we call lords greater folk than we? On what grounds have they deserved it? Why do they hold us in serfage? If they all came of the same father and mother, of Adam and Eve, how can they say or prove that they are better than we, if it be not that they make us gain for them by our toil what they spend in their pride? They are clothed in velvet, and warm in their furs and their ermines, while we are covered with rags. They have wine and spices and fair bread; and we oat-cake and straw, and water to drink. They have leisure and fine houses; we have pain and labor, the rain and wind in the fields. And yet it is of us and of our toil that these men hold their estate.' It was the tyranny of property that then as ever roused the defiance of socialism. A spirit fatal to the whole system of the Middle Ages breathed in the popular rhyme which condensed the levelling doctrine of John Ball, 'When Adam delved and Eve span, who was then the gentleman?'

"The rhyme was running from lip to lip when a fresh instance of public oppression fanned the smouldering discontent into a flame. . . . Quaint rhymes passed through the country, and served as summons to the revolt, which soon extended from the eastern and midland counties over all England south of the Thames. 'John Ball,' ran one, 'greeteth you all, and doth for to understand he hath rung your bell. Now right and might, will and skill, God speed every dele.' 'Help truth,' ran another, 'and truth shall help you! Now reigneth pride in price, and covetise is counted wise, and lechery withouten shame, and gluttony withouten blame. Envy reigneth with treason, and sloth is take in great season. God do bote, for now is tyme!'. We recognize Ball's hand in the yet more stirring missives of 'Jack the Miller' and 'Jack the Carter.' 'Jack Miller asketh help to turn his mill aright. He hath grounden small, small: the King's Son of Heaven he shall pay for all. Look thy mill go aright with the four sailes, and the post stand with steadfastness. With right and with might, with skill and with will; let might help right, and skill go before will, and right before might, so goeth our mill aright.' 'Jack Carter,' ran the companion missive, 'prays you all that ye make a good end of that ye have begun, and do well, and aye better and better: for at the even men heareth the day.' 'Falseness and guile,' sang Jack Trewman, 'have reigned too long, and truth hath been set under a lock, and falseness and guile reigneth in every stock. No man may come truth to, but if he sing "si dederò." True love is away that was so good, and clerks for wealth work them woe. God do bote, for now is time.' In the rude jingle of these lines began for England the literature of political controversy; they are the first predecessors of the pamphlets of Milton and of Burke. Rough as they are, they express clearly enough the mingled passions which met in the revolt of the peasants; their longing for a right rule, for plain and simple justice; their scorn of the immorality of the nobles, and the infamy of the court; their resentment at the perversion of the law to the cause of oppression."

If this extract is an example of the skilful weaving of picturesque

details into the web of history, the following is an example of constitutional theory of the best kind. Perhaps, however, this Review is no fair judge of the merit of Mr. Green's idea, which is one that supports opinions as to the origin of Parliament which have been heretofore pressed with some earnestness in these pages :—

“ Amidst the many judicial reforms of Henry or Edward the Shire Court remained unchanged. The haunted mound or the immemorial oak round which the assembly gathered, were the relics of a time before the free kingdom had shrunk into a shire, and its Meetings of the Wise into a county court. But save that the King's Reeve had taken the place of the king, and that the Norman legislation had displaced the bishop and set four coroners by the sheriff's side, the gathering of the freeholders remained much as of old. The local knighthood, the yeomanry, the husbandmen of the county, were all represented in the crowd that gathered round the sheriff, as, guarded by his liveried followers, he published the king's writs, announced his demand of aids, received the presentment of criminals and the inquests of the local jurors, assessed the taxation of each district, or listened solemnly to appeals for justice, civil and criminal, from all who held themselves oppressed in the lesser courts of the hundred or the soke. It was in the county court alone that the sheriff could legally summon the lesser baronage to attend the Great Council, and it was in the actual constitution of this assembly that the crown found a solution of the difficulty which we have already stated. For the principle of representation by which it was finally solved was coeval with the shire court itself. In all cases of civil or criminal justice the twelve sworn assessors of the sheriff represented the judicial opinion of the country at large. From every hundred came groups of twelve sworn deputies, the ‘jurors’ through whom the presentments of the district were made to the royal officer, and with whom the assessment of its share in the general taxation was arranged. The husbandmen on the outskirts of the crowd, clad in the brown smock-frock which still lingers in the garb of our carters and ploughmen, were broken up into little knots of five, a reeve, and four assistants, who formed the representatives of the rural townships. If, in fact, we regard the shire courts as lineally the descendants of our earliest English Parliaments, we may justly claim the principle of Parliamentary representation as among the oldest of our institutions. . . . The court was composed of the whole body of freeholders, and no sheriff could distinguish the ‘aye, aye’ of the yeoman from the ‘aye, aye’ of the squire. From the first moment, therefore, of their attendance, we find the knights regarded, not as mere representatives of the baronage, but knights of the shire, and by this silent revolution the whole body of the rural freeholders were admitted to a share in the government of the realm.”

The one great constitutional machine which characterized all Teutonic society in its earliest historic phase was, therefore, the Hundred or shire court, from which was developed all the public and private law of the Anglo-Saxon time, army, king, witan, and the whole ad-

ministration of justice, even to the point of absorbing much church law ; and this same primeval institution, surviving the shock of conquest, civil war, and social decay, even after the steady drain of centuries which carried its powers one by one into other hands, still retained force enough in the thirteenth century to become the foundation of Parliament. This historical principle is on the whole the most valuable of all those which modern investigation has discovered, since it stamps the whole theory of monarchy as understood in the high-prerogative period, as a mere historical blunder, and establishes beyond further question the historical truth of the principle that, at least in the Teutonic race, the people always have been the rightful source of political power.

The interest of Mr. Green's work culminates, however, in the period of the Renaissance, which he has seen proper to call the "Renaissance." There is something petty and captious in finding fault with the words or the spelling an author chooses to employ, and the critic who does this by choice can have little else to say. But human patience has its limits. Alfred the Great could and did sign himself "Alfredus"; the English language has for ages known only this form of the word ; but we are now obliged to call him by the pedantic form of Alefred, and Mr. Green joins with our persecutors. To this the reading public must perforce submit, because, like other antiquarian pedantry, the reform has a good side. But why should Englishmen insist on anglicizing foreign names and words ; and if this must absolutely be done, cannot Mr. Green obtain some result less absurd than *Lewis Doutremer*, for instance, and less — nasty, shall we say, — than *Renascence* ? Is there one living Englishman who thinks so ugly a Latinism as *Renascence* better English than so well-established a Gallicism as *Renaissance* ? Not that the translation is a thing in itself objectionable, least of all in a popular work ; but if anything so thoroughly understood is to be translated, at least the translation should be better and more intelligible English than the original.

At all events the period of the "New Monarchy" and the "New Learning" is that on which the interest of Mr. Green's history touches its highest point. The reigns of Henry the Eighth and Elizabeth are admirably told. To make extracts here is not easy, for the chapters are made to be read as a whole, not in fragments, but any one who wishes to form a judgment of this part of the work can turn to the delineation of Elizabeth as on the whole a very fair specimen of Mr. Green's quality as a writer and a critic.

Excellent as the political part of the work is, its excellence is

almost thrown into the shade by the literary part. All ages have agreed in considering the public acts of men and states as forming the ground-work of history. Upon this foundation moderns have built two upper stories, so to speak ; they have made it almost essential that every history nowadays should contain an account of the modes of life, and another of the modes of thought, which characterized the period described. Mr. Green has entirely omitted the first of these two duties. He has attempted no description of the changes in habits and manners. On the other hand, he has thrown his whole energy into the other and the far more important subject of the development of modern thought. His accounts of Chaucer, of Wyclif, of More, of Shakespeare, form as delightful reading as it has been men's lot to meet in these recent years. A page in regard to the close of the Elizabethan age is worth quoting, not because it is very much better than the rest, but because it contains the gist of this whole portion of the history : —

“ The ‘ obstinate questionings of invisible things ’ which had given their philosophical cast to the wonderful group of dramas which had at last raised Shakespeare to his post among the greatest of the world's poets, still hung round him in the years of quiet retirement which preceded his death. . . . His last dramas, ‘ Othello,’ the ‘ Tempest,’ ‘ Cæsar,’ ‘ Antony,’ ‘ Coriolanus,’ were written in the midst of ease and competence, in the home where he lived as a country gentleman with his wife and daughters. His classical plays were the last assertion of an age which was passing away. The spirit of the Renaissance was fading before the spirit of the Reformation. Puritanism was hardening and narrowing, while it was invigorating and ennobling life by its stern morality, its seriousness, its conviction of the omnipotence of God and of the weakness of man. The old daring which had turned England into a people of ‘ adventurers,’ the sense of inexhaustible resources in the very nature of man, the buoyant freshness of youth, the intoxicating sense of beauty and joy, which had created Drake and Sidney and Marlowe, were dying with Shakespeare himself. The Bible was superseding Plutarch. The pedantry of Euphuism was giving way to the pedantry of scriptural phrases. The ‘ obstinate questionings of invisible things,’ which haunted the finer minds of the Renaissance, were being stereotyped into the theological formulas of the Predestinarian. A new political world, healthier, more fully national, but less picturesque, less wrapt in the mystery and splendor which poets love, was rising with the new moral world. Rifts, which were still little, were widening hour by hour, and threatening ruin to the great fabric of church and state, which Elizabeth had built up, and to which the men of the Renaissance clung passionately. From all this new world of feeling and action Shakespeare stood utterly aloof. Of the popular tendencies of Puritanism — and great as were its faults, Puritanism may fairly claim to be the first political system which recognized the grandeur of the people as a whole — Shakespeare knew nothing. In his earlier dramas he had reflected the common

faith of his age in the grandeur of kingship as the one national centre; in his later plays he represents the aristocratic view of social life which was shared by all the nobler spirits of the Elizabethan time. Coriolanus is the embodiment of a great noble; and the reiterated taunts which he hurls in play after play at the rabble only echo the general temper of the Renascence. Nor were the spiritual sympathies of the poet those of the coming time. While the world was turning more and more to the speculations of theology, man and man's nature remained to the last the one inexhaustible subject of interest with Shakespeare, as it had been with his favorite Montaigne. Caliban was his latest creation. It is impossible to discover whether his faith, if faith there were, was Catholic or Protestant. It is difficult, indeed, to say whether he had any religious belief or not. The religious phrases which are thinly scattered over his works are little more than expressions of a distant and imaginative reverence. And on the deeper grounds of religious faith his silence is significant. He is silent, and the doubt of Hamlet deepens his silence, about the after world. 'To die,' it may be, was to him as to Claudio, 'to go we know not where.' Often, at any rate, as his 'questionings' turn to the riddle of life and death, he leaves it a riddle to the last, without heeding the common theological solutions around him: 'We are such stuff as dreams are made of, and our little life is rounded by a sleep.'"

As Mr. Green advances into the eighteenth century, there are symptoms of declining interest, of haste, perhaps, of natural fatigue. It is true that the "Augustan Age" is no longer in fashion. Dryden and Pope, Addison and Gray, are comparatively little read; but they are history for all that, and Mr. Palgrave's remark is worth remembering, that "an intelligent reader will find the influence of Newton as markedly in the poems of Pope, as of Elizabeth in the plays of Shakespeare." Fielding and Smollett, and the creation of the modern novel, are ignored like Pope, Gray, and Horace Walpole. The name of Burns is not to be found in Mr. Green's book, which contains no mention of the great revival he represented, which found its prophet in Wordsworth. Of Hume and Gibbon, of Samuel Johnson, of the philosophy and the mental struggles of the eighteenth century, Mr. Green says not a word. Even the political narrative of this period becomes labored. The mind at last refuses to assimilate this condensed essence of history, and one's last sensation is one of fatigue.

This is not altogether Mr. Green's fault. Any single mind has its limits, and even in the greatest human intelligence those limits are really not hard to reach, though its range of knowledge may seem infinite. A history of England must inevitably overstrain the powers of any mind, even the most capacious that has ever yet o'erinformed its tenement of clay. The field is too large. Great as is Mr. Green's ability and wide as is his learning, he cannot carry his own individuality thoroughly into every part of it. He cannot be equally sure o

his judgment in every portion of the work. His mind must yield to human weariness. He cannot always be accurate even in his facts. It is true that, in the broad sense of absolute accuracy, there never was, and there never will be, a history written, so long as man is neither omniscient nor omnipresent, which can be more than approximately exact. Absolute truth in history is a thing which cannot be, at least so long as to err is human. But the more the historian's task is limited, the better is his chance of mastering every detail; in a compendious history of England, absolute mastery of detail is simply impossible. Probably no educated American has read Mr. Green's history without feeling that the American chapters, though admirably done, show only superficial study. The only American book referred to is Mr. Bancroft's History, even in regard to the colonization of New England. Dr. Palfrey is apparently unknown in British libraries; and that most delightful of all pictures of the Puritan, the "Life and Letters of Governor Winthrop," by Robert C. Winthrop, has never made its way to London. The ideal Puritan statesman, John Winthrop, is converted into a minister. Nine readers out of ten would understand Mr. Green to say that the crown granted a charter to Massachusetts, including Plymouth, and so created one Puritan colony, of which Boston was the capital. So, in the time of the American Revolution, an American would hardly have said that Washington gained his experience of war in Braddock's expedition, seeing that it was his experience in war that recommended him to Braddock. Nor would a Virginian have been apt to attribute so absolute an influence to Washington in 1770 over Virginia, as Mr. Green indicates. Virginia had at that time many great men, whose local influence was equal or superior to that of Washington. Nor would Americans generally concede that "even America hardly recognized Washington's real grandeur" till after his death. Americans, too, would hardly consider that Mr. Green understood or appreciated one of Washington's most brilliant military exploits, as described in the words, "The spring of 1776 saw them (the British army) withdrawn from Boston to New York." It was rather Montgomery's campaign than Arnold's raid that "nearly drove the British troops from Canada." Spain did not make an "alliance" with the States. These are mere matters of detail, and, in the great current of English history, American affairs are themselves a mere detail and may fill eight pages out of eight hundred. Nor is it intended to suggest that Mr. Green's book is inaccurate. On the contrary, it is probably as accurate as such a work can be. But if the American, who is a specialist in regard to the American portion of the book, detects in an instant

that Mr. Green is not a specialist there, the probability is strong that specialists elsewhere will reach the same conclusion in their own peculiar fields.

In short, the difficulties inherent in the task of writing a compendious history of England are such as to defy complete success, and to make it almost a matter of regret that the highest order of mind should attempt it. There is another reason for regret, which is still more to the point. The time has not yet come when English history is well enough known to allow of its being written as a whole. Every year new light is thrown upon it, and the text-books of one decade are antiquated in the next. Even in regard to the last three hundred years, the most thoroughly known period of English history, new information is incessantly modifying the views of historians. Yet the writer who undertakes to deal with this period has one immense advantage. Since the fifteenth century the conditions of life have been tolerably uniform, so that any one now living may be supposed capable of entering without great effort into the thought, language, and manners of these centuries. But the life of England from the fifth century to the fifteenth is almost purely an antiquarian study. The original conditions of it are as yet not thoroughly certain. In spite of the labors of Sir Francis Palgrave, Mr. Freeman, and Professor Stubbs, early English history has by no means said its last word, and the harvest is still rich to the gleaner. And if this is the case with Saxon England, which has been so thoroughly and carefully worked over by men of such high abilities, what can be said of Norman and Angevin England? what of Lancastrian and Yorkist England? There are long gaps of frightful ignorance, wide chasms that have never been sounded, across which Mr. Green leaps as he best can. For a long time yet the antiquarian must here be of more value than the generalizing historian; the editor must precede the narrator; the microscope will be a more valuable instrument than the field-glass. Sheer antiquarian drudgery of the least attractive kind can alone bring those ages to life, restore their modes of thought, their manners, and the logical sequence of their steps.

The more highly, therefore, the critic appreciates the ability, the genius that has so suddenly raised Mr. Green to the highest rank of English historians, the more keen must be the regret that so charming a work must soon cease to be abreast of the knowledge of the time. Yet there is one consolation which will weigh against this drawback. The advance of historical knowledge and the steady application of sound historical method may diminish the authority and value of Mr. Green's work as a mere statement of fact or theory, but

nothing can ever take away its calmness of judgment, its elevation of tone, or its beauty of style.

8. — *Fears for Democracy regarded from the American Point of View.*

By CHARLES INGERSOLL. Philadelphia: J. B. Lippincott & Co. 1875.

THE author says in his Preface that "these pages have been much curtailed from what were prepared for the press." This shows good sense, good taste, and good judgment. He could have done but one better thing; he might have suppressed them all.

To review a book of this kind properly some attempt should be made to state the theory on which it is based, and then explain the arguments used to support it; but when there does not appear to be a theory, and the argument reduces itself pretty much to general abuse, the reviewer is rather at sea. The only impression left on the mind, after reading the "*Fears for Democracy*," is a vague notion that the author thinks the American people would do better if they attended more to politics, and that centralization endangers the Republic. This is good so far as it goes, but three hundred pages of solid print seem rather a large allowance for the statement of truths which have begun to grow a little stale after forty years of constant repetition. As for the argument, it would be hard to find any one beside Washington of whom good is said, except that, oddly enough, a strange kind of affection is shown for both of those most irreconcilable of characters, — Hamilton and Jefferson.

Under such adverse circumstances but one course remains, and that is to give the reader some idea of the author and then let him speak for himself. Mr. Ingersoll appears to be a person of considerable desultory reading, and of slender discrimination. He is beset with a passion for quotation; he quotes recklessly, without seeming to care much from whom, so long as he quotes. Some sections are an absolute mash of different authors. His politics probably were originally Whiggish, after the Webster-Clay type; in course of time he drifted into Democracy, and became copperhead during the war: just now he has a very Bourbon smack. The first hundred pages are harmless, and are taken up with telling us in different ways that the Federalists wanted strong government and the Republicans did not; that finally the Republicans elected Mr. Jefferson, and that then America grew more democratic. All which we have heard at least once before. As he comes to the war, however, Mr. Ingersoll snuffs the battle from